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   CITY OF LOS ANGELES, which includes
8 LOS ANGELES DEPARTMENT OF CANNABIS
   REGULATION; AND MICHELLE GARAKIAN,
9 in her official capacity

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11   **UNITED STATES DISTRICT COURT**

12   **CENTRAL DISTRICT OF CALIFORNIA**

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14 VARISCITE, INC. AND KENNETH   ) Case No.: 2:22-cv-08685-SPG-SK
    GAY,   )
15   ) Hon. Sherilyn Peace Garnett
              Plaintiffs,   )
16   v.   ) **OBJECTIONS TO REPLY IN SUPPORT**
) **OF MOTION FOR EXPEDITED**
17 CITY OF LOS ANGELES; LOS   ) **DISCOVERY**
    ANGELES DEPARTMENT OF   )
18 CANNABIS REGULATION; AND   ) Date: Oct. 23, 2024
    MICHELLE GARAKIAN,   ) Time: 1:30 p.m.
19   ) Location: 5C
              Defendants,   )
20   )
)
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1   Defendant City of Los Angeles, which includes the Los Angeles Department of

2   Cannabis Regulation, and Michelle Garakian, in her official capacity (collectively

3   "City") hereby interposes the following objections[1] to the Reply in Support of Motion

4   for Expedited Discovery [ECF No. 66] filed by Plaintiffs Variscite, Inc. and Kenneth

5   Gay ("Variscite"):

6   　　　　1.　　　Variscite's reply is 2 pages over the 15-page limit prescribed by the Court's

7   Standing Order, without an application for permission to file an oversized brief and

8   without good cause shown, after already filing an opening brief that likewise violated

9   the Court's page limits without good cause.

10   　　　　2.　　　Variscite's reply includes a new Declaration of Jeffrey Jensen [ECF No.

11   66-1] that was not included with Variscite's moving papers, in response to the City's

12   argument in its Opposition that "Variscite's contention does not include a citation to a

13   declaration, rendering it worthless here." Opp. at 19 [ECF No. 65]. Variscite presents no

14   good reasons why its declaration could not have been included in its moving papers.

15   　　　　The City requests that the Court strike the two offending pages from Variscite's

16   reply and the new Jensen Declaration in its entirety. *See Townsend v. Monster Beverage*

17   *Corp.*, 303 F. Supp. 3d 1010, 1027 (C.D. Cal. 2018) ("New evidence submitted as part

18   of a reply is improper because it does not allow the defendant an adequate opportunity to

19   respond.") (internal quotation marks omitted); *United States v. Martinez-Leon*, 565 F.

20   Supp. 2d 1131, 1132 n.1 (C.D. Cal. 2008) (declining to consider declaration submitted

21   with reply brief as "improperly presented"); *Schwartz v. Upper Deck Co.*, 183 F.R.D.

22   672, 682 (S.D. Cal. 1999) ("It is well accepted that [the] raising of new issues and

23   submission of new facts in [a] reply brief is improper.") (internal quotation marks

24   omitted).

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26   _____

27   　　　[1] *See BirdDog Tech. Ltd. v. 2082 Tech., LLC.*, No. CV 23-09416-CAS (AGRX), 2024 WL 891793, at *1 (C.D. Cal. Jan. 29, 2024) (distinguishing permissible objections

28   to replies from impermissible surreplies).

OBJECTIONS TO REPLY IN SUPPORT OF MOTION FOR EXPEDITED DISCOVERY

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Dated: Oct. 15, 2024

Respectfully submitted,

HYDEE FELDSTEIN SOTO, City Attorney
TAYLOR C. WAGNIERE, Deputy City Attorney
KABIR CHOPRA, Deputy City Attorney
PATRICK HAGAN, Deputy City Attorney

By: _____
      PATRICK HAGAN

Attorneys for Defendant CITY OF LOS ANGELES, which includes the LOS ANGELES DEPARTMENT OF CANNABIS REGULATION; AND MICHELLE GARAKIAN, in her official capacity

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OBJECTIONS TO REPLY IN SUPPORT OF MOTION FOR EXPEDITED DISCOVERY